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MASTER



Suriname

Recent Developments Relating to Human Rights

Report by a Mission to Suriname in February 1981
by Prof. J. Griffiths

INTERNATIONAL COMMISSION OF JURISTS

S U R I N A M E

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relating to
human rights

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R E P O R T
on
RECENT DEVELOPMENTS IN SURINAME RELATING TO HUMAN RIGHTS

This is a report concerning the human rights situation in Suriname, based upon a mission to that country carried out between 3 and 17 February 1981. The facts herein reported are as of 17 February 1981.

Suriname is situated on the northeast coast of South America. A former Dutch colony, it received its independence in 1975. Suriname has a typically Caribbean population and culture, deriving from a former plantation economy which required the importation of its labour supply - first in the form of African slaves, later of Hindustani and Javanese contract labourers. These, together with the descendants of European and Jewish planters, farmers, soldiers and administrators (all of whom inter-married, or at least interbred, with the local population), and also Chinese and Lebanese merchants, American Indians, and Bush Negroes (descendants of escaped slaves), and others, go to make up an extraordinarily kaleidoscopic and relatively well-integrated population of about half a million, of whom almost a third have emigrated to the Netherlands in recent years. (1)

(1) For the social and political history of Suriname see R. van Lier, Samenleving in een Grensgebied (1977), and E. Dew, The Difficult Flowering of Suriname (1978).

Introduction: Background of the Mission

On 25 February 1980 the constitutionally established government of Suriname was set aside in an almost blood-free coup d'état carried out by a small group of non-commissioned officers, who shortly thereafter organised themselves into the Nationale Militaire Raad (National Military Council - NMR). The President of the Republic was allowed to remain in office, and the parliament was not suspended; some weeks after the coup, a new civilian government was organised. In the meantime a number of prominent political figures from the preceding régime had been arrested and detained by the NMR on charges of corruption.

In May an alleged counter-coup attempt (the "Ormskerk coup") was foiled, the leading figure killed, and a number of others arrested.

In June those in detention were turned over to civilian authorities and apparently most of them were provisionally released from custody.

In July the Human Rights Committee established under the International Covenant on Civil and Political Rights met to consider the report of Suriname, which was, however, based on the situation before 25 February. The events since the coup and the process of normalisation were extensively discussed and Suriname's position, as expounded by its representative, Professor L.Th. Waaldijk, received a distinctly sympathetic reception. The members of the Committee did express their concern with regard to the intention of the Suriname authorities to institute a special tribunal to deal with alleged corruption in the previous régime, and especially with regard to the retro-activity and vagueness of the proposed definition of corruption. At the time, the draft decree in question provided only for civil remedies (recoupment of ill-gotten gains, compensation for material damage to the state, and civil fines).

On 13 August a second alleged coup involving three members of the NMR itself and a number of civilians (the "left coup") was nipped in the bud and those supposedly involved were arrested. The same day, the President and the existing civilian government resigned, turning the government over to the military authorities. These proclaimed a state of emergency, suspended the constitution, and disbanded the parliament. (See Algemeen Decreet A, and Alg. Decr. A-1, 13-8-80) Governmental powers, since then, have been jointly exercised by the civilian authorities appointed by the military (a Council of Ministers, under President drs. H.R. Chin A Sen), the commanding officers of the army ("het Militair Gezag"), and the NMR. (See Alg. Decr. A and A-1; Alg. Decr. B-1, 14-8-80; Decr. B-5, 15-8-80) The division of both formal and actual power between these three groups (and within them) remains to this day rather opaque and apparently changeable.

Many of those released in June were re-arrested pursuant to a decree of 8 September (Decr. B-9) providing for a Special Tribunal ("Bijzonder Gerechtshof") to deal with corruption charges; severe criminal penalties had been added and a number of lesser changes made in the text of the draft decree mentioned above.

The first trial before the Special Tribunal took place on 5 November, leading (on 19 November) to one acquittal and two convictions. On 13 and 14 November the trial of those involved in the "Ormskerk coup" took place before an ordinary criminal court, and all but one accused were convicted, two in absentia, on 20 November. (In connection with the anniversary of the coup of 25 February 1980, those of the convicted persons who had withdrawn their appeals were pardoned.) On 24 November those involved in the "left coup" were indicted, and their trial before a court martial took place on 4 December; all of those accused were found guilty on 11 December; a decree of 10 November had in the meantime made it possible to try civilians in such a case before a court martial. (Decr. C-33)

On 10 December the second trial before the Special Tribunal began. Difficulties concerning the behaviour of the prosecution in this case and in several other pending cases led to the resignation of the members of the Tribunal on 12 December, and the appointment of a new Tribunal. Proceedings before the newly-constituted Tribunal continue to take place.

The foregoing extremely compressed sketch of some developments in Suriname during the past year forms the background against which allegations of violations of human rights must be understood. These allegations concern a number of features of the decree establishing the Special Tribunal, mistreatment of arrestees and detainees, procedural unfairness in the various proceedings, and infringements of the freedom of the press. Such allegations were the cause of some concern on the part of international organisations which address themselves to human rights questions - among them the International Commission of Jurists (ICJ).

Purpose and Limitations of the Mission

The original purpose of the mission was to observe the proceedings before the Special Tribunal, to gather related information, and to report to the ICJ. It proved impossible, however, to plan a trip to Suriname within the short period after the definitive date of any given trial became known. In consultation with the undersigned it was therefore decided that he should visit Suriname for a somewhat longer period than originally contemplated, and that his mission should be more broadly conceived as encompassing the human rights situation in Suriname in general.

To avoid possible misunderstanding, the limitations of this report must be kept clearly in mind. It is possible for an outside observer, not previously especially knowledgeable with respect to a

particular country or its legal system, to make a reasonable accurate assessment of the factual situation and the direction which developments are taking during the short period of his visit, so long as he limits himself to a few reasonably definite issues. It is not possible for such an observer to assess the political situation as a whole nor the prospects of longer-term change, and in any event such a general assessment was no part of the mission of the undersigned. Nor has he considered it his task to pass any kind of general judgment on the state of affairs here reported, beyond that implied by the narrow, legal context of an interpretation of events in terms of internationally-recognised norms relating to minimum protections of human rights. Given the essentially factual nature of the mission, it has also not seemed necessary to deal in technical detail with the interpretation or applicability of any of the various sources of international legal obligation concerning respect for human rights: this is a report on a state of affairs, not a brief for any particular legal conclusion concerning any aspect of that state of affairs.

Sources of Information; Acknowledgments

The undersigned observer was in Suriname for two weeks, from 3 to 17 February 1981. In that period he was able to observe one trial before the Special Tribunal (Oostburg) and the delivery of the judgment in another case (Thijm). The government of Suriname had been officially notified of his mission, and he received the assistance of the National Information Service (Nationale Voorlichtingsdienst), which among other things arranged for him to meet in privacy with several detained persons and with one of the prosecuting officials (Auditeur-Fiscaal). The observer's presence in Suriname was announced both in the press and on radio and television. He had extensive discussions with and enjoyed many courtesies from Professor L.Th. Waaldijk, president of the Special Tribunal and presiding judge of the court martial in the "left coup" case, judge

of the Court of Justice (whose members also sit individually as trial judges), and dean of the Faculty of Law. He discussed the situation in Suriname with a large number of practicing attorneys (including most of those involved as defence counsel in the corruption or coup trials mentioned above), with the head of the bar association, with other lawyers and law teachers, with prosecutors, judges, religious leaders, doctors, journalists, taxi drivers, fellow passengers on the bus, and others. He also collected a variety of documentary information including newspaper accounts of trials, judgments, legislation, books and pamphlets, etc.

The information which follows derives in every instance from several sources, which the observer had every reason to regard as reliable, and which were checked against each other. In many instances initial versions of an event differed from one another due to defective memory, differences of interpretation, etc., and in such cases the sources of the differing versions were confronted with the discrepancies, until an agreed-upon version could be reached. A number of aspects of the situation are complex and controversial (e.g. the precise circumstances surrounding the resignation of the members of the Special Tribunal and the participation in and subsequent withdrawal of a foreign lawyer from the defence of the "left coup" case); fortunately, it has not been necessary to go into these matters in preparing the following report. In the opinion of the undersigned, the facts reported herein are not subject to any reasonable doubt (and in the few cases in which the truth is not indubitable, this will be appropriately indicated).

The political situation in Suriname is tense and perceived as unpredictable. Much of the information gathered was given on the express condition that the source not be divulged, and in many other cases there seems to be no reason to subject any informant to any unnecessary risk of embarrassment. Since in any case the essential situation was the subject of virtually unanimous agreement among the different sources of information, there would be no point in indicating with any further precision who said exactly what,

except occasionally in the case of official representatives of the government.

It would, nevertheless, be ungrateful not to acknowledge here the advice and assistance received from Professor L.Th. Waaldijk. Mr Tj. Petzoldt of the National Information Service was also very helpful. The observer's gratitude to all the other people who gave him the benefit of their time, knowledge and insight is known to them, and can best be left in this general form. Of course, none of them bears any responsibility for the contents of this report.

Findings

The Three Problem Areas

A coup d'état and the ensuing military régime necessarily entail the suspension of a number of important political rights, in any event of the rights to elect and to be elected. Generally, as in the case of Suriname, related political rights (such as the right to join together in political parties) are also affected. There is no doubt that these sort of rights are not in effect in Suriname at the present time, and there is no need to discuss this aspect of the situation further.

Given the essential political situation just indicated, there are by general agreement among everyone with whom I spoke in Suriname three basic sorts of human rights problem areas which are of current importance: (1) the unsatisfactory position of the press; (2) the occurrence of arbitrary arrest and detention, and of mistreatment of detainees; (3) a variety of sorts of substantive and procedural unfairness involved in the anti-corruption proceedings before the Special Tribunal, and in the trial of the "left coup" case.

The Applicable Norms

The relevant provisions of the International Covenant on Civil and Political Rights, to which Suriname is a party, are as follows:

Article 2

...

3. Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

...

Article 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

...

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

...

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

...

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

...

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. ...

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) To be tried without undue delay;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself or to confess guilt.

...

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

...

Article 15

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

...

Article 19

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain

restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

...

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) To have access, on general terms of equality, to public service in his country.

...

Suriname is also a signatory to the Protocol accompanying this Covenant, so that if violations of the Covenant have not - after the available remedies in Suriname itself have been exhausted - been put right, individuals may appeal to the Human Rights Committee. (2)

Most of the above protections are recognised in domestic legal provisions as well, in the Constitution of the Republic of Suriname (suspended by Decree on 13 August 1980, as noted above), in the Codes of Criminal Law and Criminal Procedure, and elsewhere.

As provided in Article 4 of the Covenant, quoted above, defence of what otherwise would be a violation of a basic human right can, in appropriate circumstances, be found in the existence of a "state of emergency". Without here entering into a legal analysis of the question (3), the following observations concerning

(2) One Surinamese court has found the Covenant not internally applicable in Suriname, because of an alleged defect in the internal ratification procedure. (See the judgment in the first Special Tribunal case, Auditeur-Fiscaal v. Soek dew, 19.11.80) For present purposes, this question is irrelevant, since the Covenant is in any event binding at the international level.

(3) Suriname has not notified the Committee, as required by Art. 4 of the Covenant.

such a defence of the situation in Suriname are in order:

- a. a state of emergency can justify otherwise impermissible arrests and detentions, but not mistreatment of those detained. (See Art. 4, par.2 of the Covenant)
- b. a state of emergency could have nothing to do with the existence or functioning of the Special Tribunal, and it has in fact not been defended on such a basis. (See Art. 4, par. 1 - "strictly required by the exigencies of the situation") It follows that the length and circumstances of detention of those detained for corruption can also not be justified by reference to a state of emergency. Retroactive crimes can in any event not be so justified. (See Art. 4, par. 2)
- c. while restrictions on the press can sometimes be justified by reference to a state of emergency, the same cannot be said of the way in which such restrictions are being carried out in Suriname.

The conclusion from the above is, that apart from all other factual and legal difficulties which the state of emergency defence would entail, its potential relevance to the topics covered in this report is very limited.

The Freedom of the Press

Apart from the general existence of a state of emergency, there is at the present no special legal restriction on the freedom of the press. Nevertheless, it is clear that since 25 February 1980 the Surinamese tradition of a relatively free and critical press has suffered an abrupt and almost total reversal; how permanent this

change is remains to be seen. (4)

The situation now is this: without any legal authority, and in the absence of any possibility of review or redress, various civilian and military authorities take it upon themselves to issue orders to the editors of the various newspapers. (5)

The press is also under instructions, of unclear legal provenance, not to publish anything concerning the government, the military, etc., without checking with the authorities concerned. This "guideline" is so vague and all-encompassing that no-one knows what it applies to; nor is there anyone who can authoritatively interpret and apply it, and it is clear from many different incidents that the government is internally divided concerning the extent and enforcement of restrictions on the press. Consequently, in any given situation the practical outcome of a conflict depends upon the unpredictable result of an internal balance of power, rather than upon the application of general norms by a body which has authority to do so.

The absence of legal norms and an authoritative body to apply them, and the consequent unpredictable and erratic interference with the press, are, however, not the worst of the situation. (6) The

(4) Apart from the situation of the domestic press, there have been several incidents of interference with the news gathering activities of foreign reporters. It was not possible in the short time available to ascertain the facts in these cases nor to assess the merits of the Surinamese authorities' allegations of irresponsible behaviour on the part of the journalists concerned.

(5) While the undersigned observer was in Suriname, the Under-Minister of Police ordered all newspapers to print a rectification of an article which had appeared in one of them, and which concerned the activities of two other ministries. In this case, none of the papers complied, although the "offending" paper did publish an article reflecting an "agreed-upon" version of the incident concerned.

(6) Indeed, some informants said that they prefer such an unregulated interference to a formally instituted system of censorship, on the theory that the latter would be harder to get rid of once the political situation has returned to normal.

worst is that, within such an unregulated state of affairs, the various members of the government carry out their own personal views concerning what ought not to be publishes, apparently without regard to the contrary views of others, and in a very heavy-handed way. Members of the NMR, in particular, have taken it upon themselves to order editors to be arrested by the Military Police and held for periods varying from a few hours to several days; while held, the editors have occasionally been subjected to abusive treatment (hitting and kicking), sometimes dealt out by a member of the NMR itself. The experience is particularly intimidating because of its unpredictability and the lack of any legal protection against or redress for arbitrary detention or mistreatment: one is simply at the mercy of the individual who has taken it upon himself to have one locked up. In most cases the detention seems also to be accompanied by long and abusive harangues by those responsible for it, and an absence of any opportunity for the editor concerned to discuss, explain or defend the incident giving rise to it. Since this sort of anarchic intimidation of the press has taken place quite frequently in recent months (at least one editor having experienced it several times in quick succession), the consequences for the effective freedom of the press have been, and are, very serious. The local press is threatened with becoming little more than a distribution system for government press releases. Many people with whom the undersigned spoke in Suriname consider the intimidation of the press the most serious human rights problem which is at the moment taking place. (7)

Arbitrary Arrest and Detention, and the Mistreatment of Detainees

During the course of the past year considerable numbers of

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- (7) There have apparently been recent efforts within the government, so far successfully resisted by other insiders, to create a National Communications Council (Nationale Communicatieraad), which in one form or another would exercise centralised control over all media of communication. Time and opportunity were lacking to ascertain the truth concerning this question.

people have been arbitrarily arrested (that is, without any reasonable, let alone legal, ground). They have been detained frequently for long periods in the absence of any legal warrant. Much of this took place in connection with or at the time of political turmoil (after 25 February and at the time of the two alleged counter-coups) and is in that context understandable whilst remaining unjustifiable (especially as far as the length of detention is concerned). At present, furthermore, the problem of arrest or detention without legal warrant (with the exception of the intimidation of the press, discussed above) appears largely to have subsided. Although allegations that there are still persons detained without legal warrant came to this observer's attention, it was not possible to verify them. What is, however, a serious ground for concern is the apparent absence of any effective legal protection against arbitrary arrest and detention should it occur: it is this sort of insecurity, rather than any present abuse, which gives rise to the high level of anxiety which is such a palpable aspect of everyday experience in Suriname today.

The problem of mistreatment of those detained is more complex and troubling. It resolves into four rough categories: a) serious physical mistreatment (with serious medical consequences); b) abusive and intimidating interrogation; c) "normal" police brutality; and d) organized and systematic police brutality.

Shortly after the coup of 25 February 1980, at the time of the "Ormskerk-coup" attempt until October or November, a disturbing number of cases of very serious physical mistreatment, sometimes bordering on torture, and occasionally entailing permanent injury or death, have occurred. Several cases are well-documented, and there can be no doubt that a good deal of this sort of serious mistreatment has taken place over the past year. There can also be no doubt that leading figures in the military have been directly involved, either personally or in the sense that the events took place with their knowledge and apparent consent, and in any case under their responsibility. There seems to have been no pattern in these cases. Some involved persons thought guilty of ordinary

crimes, both serious and trivial. Others involved some (but by no means all) of the prominent former politicians detained in connection with corruption charges. Others involved persons protesting against the maltreatment they or others had suffered (even when such protests were made without drawing public attention to the incident), while other cases of such protests not only went unsanctioned, but appeared to secure some measure of redress. Some cases appear to have involved purely personal vendettas of individual members of the NMR. And some cases seem to have been more or less accidental. For the moment, this sort of serious mistreatment seems to belong to the past, although, as in the case of arbitrary arrest and detention, the absence of any effective legal security or redress fosters a good deal of worry with respect to the future. The apparent immunity of those whose culpability is evident from any sort of legal or even informal sanction contributes to the general atmosphere of lawlessness which one encounters on every hand, and which (or so it seems to an outsider) is one of the greatest political liabilities of the current régime. People, to put the matter bluntly, do not like feeling threatened.

Many cases of abusive and intimidating interrogation (involving such unrefined methods as bright lights, long hours on hard benches, shouting, threats, and other forms of intimidation) have undoubtedly taken place in the recent past. Partly this is a consequence of the use of the military Police for ordinary police work for which they are not trained, or the assumption of prosecutorial roles by some members of the NMR. Evidence concerning such interrogation practices has been presented in several trials without leading to exclusion of the testimony (or even to a serious judicial examination of the allegations) or to any other sanction against the offending interrogators. This problem does not seem to be of currently serious dimensions.

"Normal" police brutality is a feature of all known police systems, and therefore also of the police in Suriname. Before the coup of 25 February 1980, however, the police had an excellent reputation for professionalism, and brutality (while certainly not

unknown) was neither openly nor implicitly tolerated by police authorities or the public prosecutors - or so one is told by persons in a position to know. I heard no complaints with respect to the ordinary police relating to the year since the coup. The problem of police brutality concerns the Military Police who, as noted above, have since 22 August 1980 been given the powers of the ordinary police with respect to ordinary criminal offences. Since they are not trained for this sort of work, and the restraints which it requires are foreign to them, a good deal of unnecessarily heavy-handed, stigmatizing and intimidating behaviour accompanies their activities. They operate, also, in the atmosphere of lawlessness which members of the NMR have created and which their repeated example has served to perpetuate. When NMR members allow themselves to be televised in the act of beating detained persons, when they ostentatiously parade their contempt for the law and for normal processes of government, it is only to be expected that ordinary military police will draw the conclusion that the normal rules of civilized behaviour do not apply to those in uniform. They apparently get swept up in the general Wild West spirit which those responsible for governing Suriname have created and continued to foster. (8) A certain restraint and respect for orderly process by those at the top, and the existence of clear and effective channel for redress in cases of abuse - and, probably, the withdrawal of the military police from ordinary police work - are essential preconditions, it would seem, if an end is to be put to the current unnecessary level of police brutality. (The few cases in which those responsible for mistreatment of detainees have been disciplined were the result of this sort of "normal" police brutality which got out of hand and led to serious injuries. But the general absence of effective legal remedies applies here, too.)

Finally, and at the moment most disturbing, is the phenomenon of organized, systematic police brutality. In the Military Police headquarters at Fort Zeelandia (and perhaps elsewhere), ordinary

(8) Some of this is almost amusing - as, for example, the widely reported incidents of refusal by soldiers to comply with ordinary traffic rules, to follow directions of traffic police, etc.

criminals are daily and routinely beaten and whipped. This apparently takes place with such regularity and consistency, and makes so much noise, that it is simply impossible that the responsible officers do not know and implicitly approve of it - if, indeed, they do not explicitly authorize it; indeed, the difference between implicit and explicit authorization seems irrelevant in such a case. Organized police brutality of this sort is definitely not a problem of the past. Nor does there appear to be any effective legal or other redress available at the present. And the victims enjoy the benefit of far less attention than those accused of subversion or corruption.

The basic facts concerning all of the above forms of mistreatment are widely known in Suriname. They are not, however, reported in the newspapers - for obvious reasons (see above). One cannot help but think that many of the worst excesses would not have occurred, and that the guilty would more likely have been sanctioned, had the press been freer in this respect. Greater freedom of public criticism would also benefit the government itself, since it would lead to more restraint with respect to that sort of violent and lawless behaviour which - if one can draw inferences from what one overhears on street corners and in shops and buses, as well as from more professional sources - is the greatest single source of popular resentment and the greatest single political liability of the current régime.

The Special Tribunal

The creation of a Special Tribunal to deal with allegedly corrupt practices under the preceding régime has probably attracted more adverse attention from those concerned with human rights than the other matters dealt with above. Furthermore, some of that concern is simply misinformed (e.g. the supposed reversal of the burden of proof: this was a feature of the draft decree which, as noted, had an essentially civil character, but it is not a feature of the present decree). What is not misinformed tends to address itself

to one aspect of the decree - its retroactivity - without noting the important respects in which that violation of a fundamental principle could be, and in fact has been, substantially cured in practice; on the other hand, matters of more substantial practical importance have been more or less overlooked. The long and the short of the undersigned observer's conclusion is this: while the decree is in principle objectionable in a number of respects, and while its implementation has also been inconsistent with some basic human rights, the tendency of recent developments, and especially the way in which the judges concerned are implementing the decree, go a considerable way towards curing the situation. As a result, the Special Tribunal as it is currently operating cannot be considered to entail violations of human rights of the same order of importance as the subjects dealt with above. This general conclusion is shared by many well-informed people in Suriname.

Article 1 of the decree establishing the Special Tribunal (Decree B-9) defines corruption as behaviour (a) which violates "generally accepted ethical and moral norms in the society, whether or not made punishable in the Criminal Code or any other law", and (b) which also involves the direct or indirect use of an official position, or the use of a "special position in relation to the State" to encourage others (officials or not) to engage in such behaviour, or which entails an attempt to profit from such behaviour, if (c) it appears from the behaviour itself that it was consciously inconsistent with the material interests of the state or the Surinamese society. (9) This provision both specifies the punishable behaviour and determines the jurisdiction of the Special Tribunal; it also forms the basis for the requirements of the formal charge on which an accused stands trial.

Article 1 is, as a definition of an offence, objectionable on its face in two respects: its retroactivity and its vagueness. Nor has any consideration come to the attention of the undersigned observer which would tend to justify it. The objection to retroactive criminal

(9) See appendix for the full text in Dutch.

provisions is naturally not overcome simply by pointing to behaviour which ought to have been punishable, since the principle would be an empty one if it forbade only that for which there is in any case no need. The suggestion that the Decree is (partly) of a disciplinary rather than a criminal character, while perhaps tenable with respect to the original draft of the decree, cannot be taken seriously in the light of the heavy punishments provided in the decree (and in fact handed down) and the other obviously criminal trappings of the entire procedure. It may be that civil, disciplinary, and criminal measures were called for; if so, they ought to have been kept separate - in substance, and probably in procedure as well. Nor, finally, does it appear that anything approaching the degree of extremity of circumstances (that is, conduct "criminal according to the general principles of law recognised by the community of nations" - Art. 15, par. 2 of the covenant) which might possibly justify departing from the provisions of the existing criminal law of Suriname, existed or exists in that country.

The retroactivity and vagueness implicit in a concept of corruption not tied to the relevant provisions of existing law has, however, been considerably mitigated by the interpretation which the Special Tribunal has put on Article 1. (See the Thijm case, De Ware Tijd, 14.2.81) According to that interpretation, Article 1 is primarily jurisdictional in character: it determines, that is, which of the violations of the ordinary criminal law qualify as "corruption" and therefore come within the competence of the Special Tribunal. In the vast majority of cases which come before the Tribunal, the norm whose violation is at issue will thus have to be found in existing law. The Decree permits departure from the principle of nulla poena sine lege only in "very exceptional circumstances" and only if "such serious and blameworthy behaviour is involved that every person can and must understand that such behaviour is not only impermissible but also highly deserving of punishment". Such an interpretation appears to limit the retroactivity and vagueness of Article 1 practically speaking to near, if not beyond, the vanishing point. the Special Tribunal has, in short, demonstrated its sensitivity to the human rights problems posed by Article 1 of the Decree, and has

gone a long way towards finding an adequate solution.

There do remain two related problems. The punishments provided by the decree are different from, and more serious than, those provided for in the provisions of ordinary criminal law which the Special Tribunal will invoke - under the above interpretation - as a source of the norms to be applied. Up to now the Special Tribunal has not explicitly decided that the punishment provisions of the Decree likewise are to be read as limiting its own competence, but not in derogation of the maximum punishments provided for in the ordinary criminal provisions whose violation must be established; indeed, it seems to have suggested that such a parallel interpretation cannot be applied to the question of punishment. Unless and until the Tribunal does take this further step, a very objectionable form of retroactivity remains. Because up to now the relationship between the judgment in any given case and particular provisions of the ordinary criminal law has not been made explicit, it is hard to say whether retroactive punishments have in fact been applied. ⁽¹⁰⁾

The second remaining problem relating to Article 1 concerns the adequacy of the charge upon which an accused stands trial. At the present time, the indictment invokes Article 1 and specifies the relevant facts; it provides no clear identification of the provisions of the criminal law whose violation will have to be proved. It is presently the practice of the Tribunal to cite the relevant provisions at the outset of a trial. This situation obviously amounts to a drastic limitation on the possibility of preparing an adequate defence, since only at the trial itself does it become clear exactly which legal norms will be considered applicable. It also entails a fundamental inequality between prosecution and defence, the former having months at its disposal for legal research and the collection of evidence deemed relevant to the position which it plans to take;

(10) Such retroactivity has almost certainly occurred as far as fines are concerned. It is a pity that recovery of ill-gotten gains has been attempted via fines, and that use has not been made of the civil provisions of the Decree. The Decree provides for several objectionable punishments which have not, however, so far been imposed: banishment, solitary confinement, general confiscation of property.

the defence is forced to do its legal "research" during the trial itself and more or less out of its head, as the implications of the norms which are then for the first time specified become apparent. It would seem that the Special Tribunal could easily take steps to put such a glaring and unnecessary sort of unfairness right.

The problems connected with presenting an adequate defence were in the early days of the operation of the Special Tribunal very serious. The charges and accompanying dossiers were made available to the defence only a few days before trial. Contact between the accused and his lawyer was also only permitted during those last few days: the prosecutors seem clearly to have abused their power to refuse such contact, a power which ordinary prosecutors also possess but, it is said, practically never use. Ordinary criminal defendants thus have access to counsel ⁽¹¹⁾ within a few hours of their arrest, whereas those detained pending a trial before the Special Tribunal have often had to wait many months for their first contact with a lawyer. Furthermore, there were incidents of interference with the privacy of the contacts which did take place, and of interference with the right of an accused to a free choice of his lawyer. Happily, all of these patent violations of elementary principles seem now to be matters of history, except for the denial of access to counsel in the early stages of detention. So far as can be ascertained, it remains the policy of the prosecution to deny such contact; there are persons who have now been detained for over half a year without having once been allowed to see a lawyer. The undersigned is unaware of any consideration which could possibly justify such a policy.

The question of detention is itself one of the most serious objections to the way in which the Decree has been implemented. In a normal criminal case the prosecutor can order pre-trial detention on a number of specific grounds and for a period of at most 120 days; extensions must be ordered every 30 days, and the accused can be assisted by his lawyer at every extension; after 120 days

(11) This access is not just a matter of theory: Suriname appears to have a well-functioning system of appointed counsel.

two judicial extensions of 30 days each are possible; at all times the accused can request the court to order his release. Under Article 25 of the Decree the criteria for detention are extremely vague ("serious charges" and "the interests of the investigation or of public order or safety, or danger of flight"); an unlimited number of 30-day extensions can be ordered by an individual prosecutor; and the only protection against abuse lies in the right to petition the Special Tribunal for release. A number of persons (at present about 10) have now been held for far longer than would have been possible in a normal criminal proceeding ⁽¹²⁾ without several of the protections there afforded. Furthermore, in an earlier stage of the implementation of the Decree, the prosecutors systematically frustrated the hearing of petitions for release by the Tribunal. This seems no longer to be the case, and the undersigned observer was given to understand that the Tribunal is now increasingly inclined to take an active and critical role with respect to the length of detention.

All of the problems concerning the practical implementation of the Decree are greatly aggravated by the way in which the prosecutorial staff is organised. In Suriname's ordinary criminal procedure the prosecutor is a highly professional, quasi-judicial figure who receives special training and enjoys permanent tenure, and who serves in a hierarchically organised prosecutorial apparatus with an internal professional ethic and prosecutorial policy, and with effective controls upon the activities of its members. In serious cases the investigation is, furthermore, under the supervision of an investigating magistrate, who is a member of the judiciary serving on rotation. This highly judicialised prosecutorial apparatus is an essential element of the so-called "inquisitorial" mode of criminal procedure common in civil law countries and which Suriname has adopted; it is a necessary condition of the fairness of such a system. The single greatest cause for concern, so far as the conduct of prosecutions under the decree is concerned, is the

(12) The inexperience of the prosecutorial staff is obviously no excuse for such a serious invasion of a basic freedom.

absence of such an apparatus. The three prosecutors enjoy equal rank, and they function independently of any established professional structure; the normal controls over their behaviour are absent; they have no consistent prosecutorial policy; there is no superior to whom individuals, lawyers or judges can complain if they act out of line. Furthermore, they are unqualified and inexperienced: one is a soldier with no legal training or experience; one a lawyer with no prosecutorial experience; and one a lawyer with a brief experience as a junior member of a prosecutorial staff. As a group and as individuals they do not enjoy a reputation for judiciousness or competence. (13) Nor do they enjoy the external appearance of quasi-judicial impartiality required of such officers, and the widespread belief that they are insufficiently resistant to extra-legal considerations is strengthened by the fact that one of them is one of the most prominent figures in the military. (14)

There are a number of prosecutors available in Suriname of long experience and sound professional reputation. Some were apparently objectionable to the military régime on political grounds, while others refused to have anything to do with prosecutions whose independence of military pressure and interference was not guaranteed and which involved such vague and retroactive charges.

(13) It ought to be pointed out that one widely heard objection to their lack of professional competence is that many cases of serious corruption are alleged to be slipping through their fingers. For months, the proceedings before the Special Tribunal were in a number of respects frustrated by the failure of the prosecution to produce the required dossiers on time. The assignment of investigatory work to the military police also entails incompetent and inefficient preparation of cases.

(14) The appointment of the prosecutors, furthermore, is by the Minister of Justice in consultation with the military authorities. (See Decree B-9, art. 19.1.) The appearance that non-judicial considerations play a part in the prosecution of corruption cases is also strengthened by the provision that persons arrested in the state of emergency by the military authorities on suspicion of corruption can only be released if all three prosecutors so decide; it is not clear to what extent this provision suspends the requirement of extension every 30 days or affects the power of the Special Tribunal to order release upon petition. (See Decree B-9, art. 83)

Especially in light of the already noted adverse effects of that last factor on the procedural fairness of proceedings before the Special Tribunal, and of the sensitive position of the prosecutors with respect to such critical matters as detention, contact between detainees and their lawyers, etc., the present state of affairs with respect to the prosecutorial apparatus is very unsatisfactory. There is also no apparent excuse for it, nor any reason why it could not easily be set right. (15)

A third set of objection to the activities of the Special Tribunal concerns the membership of the Tribunal itself. The problem here is not so much that deviations from impartiality and judiciousness are alleged to have occurred as rather that the conditions for confidence that such deviations will not take place are lacking. The English say that "justice must not only be done, it must manifestly be seen to be done", and it is with respect to the latter requirement of fair procedure that there is well-founded ground for concern. (16)

(15) That the possibility of prosecutorial arbitrariness has also entailed actual arbitrariness is also plain. The lack of a prosecutorial policy has led to cases of apparent arbitrariness in the selection of cases for prosecution. When one detainee asked the military member of the prosecutorial trio (who until very recently is said to have handled all extensions of detention) how long he could expect to be detained, he was answered in a raised voice: "I decide how long the investigation takes!" The pressure to "cooperate" which inevitably follows from such unbridled power to detain - especially when detainees may not have contact with lawyers - is one of the more important objections to such a state of affairs. Stories of false confessions made to speed up the process, or to avoid mistreatment, abound.

(16) No suggestion is made that fair trials are impossible, or that the trials to date were not substantially fair. Conviction in any case is not a foregone conclusion, and there have in fact been some acquittals. It was impossible for an observer to make any judgment concerning the strength of the evidence in these cases. It is widely alleged among lawyers whose opinion is entitled to respect that the various courts and tribunals have neglected evidence of coercion in extracting statements, have been unusually gullible with respect to prosecution witnesses, and have convicted on legally insufficient evidence. On the whole, such objections apply less to the Special Tribunal than to the two counter coup trials.

Unlike a normal court, the members of the Special Tribunal are specially appointed to that Tribunal by decree, and their tenure is limited to the duration of the Tribunal. Three of the five members are non-lawyers appointed by the military (and are themselves officers, in one case on active duty); only the presiding member is a professional judge. The fact that one of the prosecutors is also a prominent member of the military, the presence in the courtroom of large number of military police (in a police function, to be sure) and, from time to time, of members of the NMR - all this contributes to an atmosphere in which it is easy for the ordinary observer to wonder how independent the Tribunal really is from instructions from the military. A variety of at the least unfortunate incidents serves further to undermine confidence in the impartiality and independence of the Tribunal. One of its military members expressed his views concerning the guilt of members of the prior régime some months before his appointment. (17) The circumstances surrounding the resignation of the original members of the Tribunal in December make it appear that the military members, at least in that case, did follow instructions from outside (and, most probably, from the military member of the prosecutorial staff). That resignation itself - entailing, as it did, the departure from the Tribunal of three respected and experienced jurists (the military members were re-appointed), who claimed with obvious justice that the Tribunal's effort to run fair proceedings was being systematically frustrated by the behaviour of the prosecutors - inevitably casts a shadow on the work of their successors, even though the specific reasons for their resignation seem no longer to obtain and their successors seem to be succeeding as well as can be expected in the circumstances in affording accused persons a fair proceeding.

The government has contributed in various ways to the atmosphere of suspicion and distrust surrounding the work of the Tribunal. On a number of occasions it has expressed its view that the

(17) It is said that at least one member of the prosecution has in the past announced his views on TV concerning the guilt of accused persons, on the eve of their trial.

judiciary before and after the coup of 25 February 1980 was too lax in dealing with corruption. In the decree of 13 August 1980 announcing the resumption of power by the military, for example, one of the considerations listed as justifying that step was an alleged "strong tendency in the policy of the judicial authorities to protect persons who apparently engaged in corrupt practices in the past" - an accusation which rests on nothing other than the application of normal rules of fair criminal procedure (e.g. releasing persons against whom there is no evidence), so far as the undersigned could ascertain. At the time of the resignation of the original members of the Tribunal the then Minister of Justice stated that the membership of the Tribunal needed in any case to be changed since the existing members had behaved as an ordinary court and thereby had ignored the "new legal needs" of the society (he was apparently dissatisfied with the judgment of acquittal in one case and the moderate punishments in two others). He also suggested that the Tribunal, in its efforts to speed up the procedures, had been subjected to pressure from outside. All this sort of misleading and politically charged commentary naturally lends itself to a boomerang effect: when government officials first criticise one Tribunal, appoint its successor, and then appear to be satisfied with the results, the public can easily draw the conclusion that the successor Tribunal has learned the lesson of its predecessor and now is not acting impartially as an "ordinary court". The long and the short of the matter, in any event, is that the Special Tribunal, as presently constituted, and given the background partially sketched above, does not appear to enjoy the confidence of the public, lay or professional. Rightly or not, it is not regarded as reliable and independent. It may be that its recent judgments severely restricting the scope of the Decree, and its increased activity with respect to detention and related questions, will help to restore general confidence in its work, and this is greatly to be desired. The situation of general distrust which the undersigned observer encountered was very disturbing.

Most of the problems with the procedures before the Special Tribunal discussed so far could be entirely or substantially remedied

within the context of the Decree as it stands; indeed, the recent activities of the Tribunal have made great improvements in a number of important respects, as noted above. There remains one fundamental defect in the Decree which can only be remedied by legislation: the absence of a right of appeal. Indeed, many of the problems mentioned above (and especially the presence of a majority of lay members with apparent links via their military background to the prosecution and the government) would be substantially mitigated if an appeal were possible to the Court of Justice (which hears appeals in ordinary criminal cases, and also from courts martial which, like the Special Tribunal, entail lay judges). The provision for a petition for pardon to the President and the military authorities is an obviously insufficient means for "correcting" judgments of the Tribunal, despite the suggestion to that effect in the memorandum accompanying the Decree. (18)

The Court Martial of Those Allegedly Involved in the "Left" Coup

Many complaints concerning the prosecution and conviction of this case came to the attention of the observer. These concerned the conditions of detention, mistreatment, extraction of statements by violence and threats; the intimidating atmosphere of the trial itself; the obstruction of defence counsel; the insufficiency and (allegedly) patent unreliability of the evidence of guilt; the trial of civilians before a court martial (pursuant to Decree C-33, 10.11.80); etc. Since the case is still sub judice on appeal, it seems better not to consider it in detail here.

It seems clearly established that the military authorities attempted in various ways (so far, unsuccessfully) to prevent a

(18) The suggestion that the Decree contemplates a sort of "summary justice" and that appeals would lead to intolerable delays, is unacceptable on its face as a justification for the denial of a fundamental human right. It is furthermore almost humorous in light of the extraordinary delays which the tempo of the prosecution has led to.

review of the convictions in this case on appeal. Both threats of violence and promises of pardon were employed in this connection. (On 5 March 1981, all of those convicted in this case were amnestied by decree.)

Summary and Conclusions

The following would seem to be the most serious problems concerning human rights which have arisen during the past year:

- a. Infringement of the freedom of the press by means of lawless, arbitrary intimidation.
- b. Mistreatment of detainees, some very seriously, without the possibility of any legal redress.
- c. Arbitrary arrests and long detention without adequate legal safeguards.
- d. Prevention of and interference with contact between detained persons and their lawyers.
- e. The absence of a proper prosecutorial structure in corruption cases.
- f. Inadequately specific charges in corruption cases.
- g. Inadequate time and opportunity to prepare the defence in corruption cases.
- h. The absence of a right of appeal in corruption cases.
- i. Problems concerning the appearance of independence and impartiality of the members of the Special Tribunal.

j. Retroactivity of the punishments in corruption cases.

For reasons set forth earlier in this report, the situation with respect to most of these problems seems at the moment to be developing in a positive direction, and many violations of basic human rights happily belong to the past. Of current special importance are the position of the press, the occurrence of systematic police brutality, and several features of the corruption procedures before the Special Tribunal which that Tribunal has not yet remedied, or lacks the capacity to remedy.

It should also be noted that in all of the trials to date - both those relating to the two alleged coup attempts and those before the Special Tribunal - the punishments imposed have been consistent with the humane tradition of Suriname's judiciary. The objections which the then Minister of Justice voiced against the lenient policy of the original membership of the Tribunal (a policy which supposedly evidenced its lack of appreciation of the "new legal needs" of Suriname and therefore justified its replacement) do not appear to have had any adverse impact upon the independence and judgment of their successors. (19)

On the other hand, it should be noted that such a relatively positive and optimistic overall assessment as emerges from this report does not conform to the perception of many persons with whom the undersigned observer spoke in Suriname. Partly the difference in perspective is to be explained in terms of the luxury of the position of an outsider, who because he is not himself involved or threatened, can afford to see events somewhat impassively and from a distance, and thus observes the continuing human rights problems of Suriname in an historical and comparative context in which they appear relatively less grave.

(19) The Tribunal has also not been helped in this regard by a well-conceived punishment policy on the part of the prosecutors. Draconian demands histrionically presented have taken the place of a consistent, intelligible and carefully presented policy.

There is another difference, however, which is more important to the proper interpretation of the findings in this report. The period of this mission was, relative to most of the foregoing year, a very favourable one. Most excesses were, at least temporarily, a matter of the past, and the trend (especially in the case of the decisions and activities of the Special Tribunal) was in a distinctly positive direction. Many Surinamese observers, however, are acutely conscious of the political context within which such relatively positive short-term developments are to be placed. They are less concerned with the immediate situation than with the absence of legal or other guarantees against a return - perhaps even in a worse form - of the excesses of the past year. Arbitrary arrests and detention (with the exception of members of the press) are probably not now taking place; nor is serious mistreatment of detainees (except, of course, of "ordinary" criminals). But given the absence of any legal protection against such abuses - as evidenced, among other things, by the absence of any significant sanctions, civil, criminal or otherwise, against those notoriously guilty of such abuses in the recent past - everyone knows that he has only the present delicate political balance to thank for the relative security he now enjoys.

An atmosphere of insecurity hangs over the country, an atmosphere of defencelessness which is itself a human rights problem of very serious dimensions. Only the government can do anything about this, by putting an end to official and semi-official anarchy, and hence to the stifling atmosphere which it fosters, and by making clear that a permanent end has come to violence and lawlessness, and that those involved, whatever their rank, will be made to suffer the legal consequences.

Groningen, 27 February 1981

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Faculty of Law
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United States)



1980

No. 72

STAATSBAD
van de
REPUBLIEK SURINAME

DECREET B-9

DECREET van 8 september 1980 houdende de instelling van een speciaal berechtingscollege (Decreet Bijzondere Rechtspleging).

DE PRESIDENT VAN DE REPUBLIEK SURINAME,

In overweging genomen hebbende:

dat de buitengewone omstandigheid waarin Suriname sedert 25 februari 1980 is komen te verkeren het dringend noodzakelijk maakt om ter voldoening aan de ontstane rechtehoefden de mogelijkheid te scheppen om personen, die zich te rekenen van 1 januari 1970 in Suriname, in strijd met de belangen van de Surinaamse gemeenschap hebben gedragen, en op ethisch en/of moreel onverantwoorde wijze gebruik hebben gemaakt van machts- en/of geldmiddelen van de Staat en/of de Surinaamse gemeenschap, ten aanzien van hun persoon en hun vermogen aan bijzondere maatregelen te onderwerpen en tevens bijzondere regelen te stellen met betrekking tot hun inbewaringstelling en hun vrijheidsbeneming;

dat deze maatregelen mede de strekking hebben de rechtszekerheid en de rechtsveiligheid te bevorderen;

Heeft, in bezamenlijk overleg met de Raad van Ministers en het Militair Gezag, besloten:

TITEL I

Van de oplegging van bijzondere maatregelen

Artikel 1

1. Aan personen, die op het tijdstip van het inwerking treden van dit decreet de leeftijd van achttien jaren hebben bereikt en te rekenen van 1 januari 1970 zich in Suriname hebben schuldig gemaakt aan gedragingen die indruisen tegen

algemeen aanvaarde ethische en morele normen in de samenleving, welke gedragingen al dan niet strafbaar zijn gesteld in het Wetboek van Strafrecht of in de enige andere wet en daarbij - tijdens de toen geschapen feitelijke toestand - hetzij gebruik hebben gemaakt van hun positie binnen het Staatsapparaat hetzij als derden gebruik hebben gemaakt van personen met een deel van de Staatstaak belast, hetzij gebruikmakende van hun bijzondere positie jegens de Staat landsdienaren natuurlijke personen of rechtspersonen hebben aangezet tot zodanige gedragingen, zulks al dan niet met het doel zichzelf of anderen te bevoordelen, hetzij voordeel hebben getrokken of getracht hebben te trekken uit gedragingen van personen, als hiervoren omschreven, kunnen, indien zij op grond van hun handelen of nalaten geacht moeten worden zich desbewust te hebben gedragen in strijd met de materiële belangen van de Staat en/of de Surinaamse gemeenschap of desbewust afbreuk te hebben gedaan aan deze belangen, bij uitspraak van een bij dit decreet in te stellen Bijzonder Gerechtshof als schuldig aan corruptie bijzondere maatregelen worden opgelegd.

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The West Bank and the Rule of Law

A study by members of Law in the Service of Man (LSM), a group of Palestinian lawyers affiliated to the International Commission of Jurists (ICJ), published jointly by the ICJ and LSM, Geneva, October 1980, 128 pp. (ISBN 92 9037 005 X). Available in english. Swiss Francs 10 or US\$ 6, plus postage.

The study is the first survey and analysis to have been made of the charges in the law and legal system introduced by Israeli military orders during the 13-year occupation. It is a task which could only be undertaken by West Bank lawyers as the military orders, which number over 850, are not available to the general public and not to be found in libraries. The study is divided in three main parts: the judiciary and the legal profession, restrictions on basic rights and Israeli alterations to Jordanian law. The authors of the study argue that the military government has extended its legislation and administration far beyond that authorised under international law for an occupying power, thus ensuring for the State of Israel many of the benefits of an annexation of the territory.

★ ★ ★

Human Rights in Nicaragua: Yesterday and Today

Report of a mission by Professor Heleno Claudio Fragoso of Brazil, and by Dr. Alejandro Artucio, a legal officer of the ICJ Secretariat, Geneva, September 1980, 86 pp.

Available in english or spanish. Swiss Francs 6 or US\$ 4, plus postage.

The report describes the legal framework and major human rights violations under Somoza's regime and discusses the human rights situation under the present regime. It comments favourably on the new government's commitment to the rule of law and the legal protection of human rights, but it urges the government to resolve the problem of the 7,000 "somocistas" still in detention by accelerated releases and improved trial procedures.

★ ★ ★

The Trial of Macias in Equatorial Guinea

Report of an observer mission by Dr Alejandro Artucio, legal officer of the International Commission of Jurists, Geneva, December 1979, 70 pp.

Available in english or spanish. Swiss Francs 4 or US\$ 2.50, plus postage.

The report includes a description of the nature of the repression under Macías and the economic and social conditions of the country resulting from it. Criticisms are made of certain legal aspects of the trial, but the observer found most of the charges fully proved.

★ ★ ★

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